

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

GREG TAYLOR,)	
)	
Plaintiff,)	
)	
v.)	No. 1:22-cv-01496-JMS-DML
)	
INDIANA DEPARTMENT OF CORRECTIONS,)	
ROBERT CARTER JR.,)	
MARK LEVENHAGER,)	
AMY EICKMEIER,)	
DENNIS REGAL,)	
IDOC,)	
WILLIAM JONES,)	
VICKIE BURDINE,)	
L. HANBLIY,)	
VENDOR,)	
WILLIAM MAYS,)	
CHRISTINE LIEDTKE,)	
MICHELLE COMMANDER,)	
CENTURION HEALTH,)	
L. HAMBLIN,)	
)	
Defendants.)	

Order Screening Complaint and Directing Further Proceedings

Plaintiff Greg Taylor is a prisoner currently incarcerated at Pendleton Correctional Facility. He filed this civil action alleging that the defendants were deliberately indifferent to his serious medical needs and that they have violated Indiana tort law. Because the plaintiff is a "prisoner," this Court has an obligation to screen the complaint before service on the defendants. 28 U.S.C. § 1915A(a), (c).

I. Screening Standard

When screening a complaint, the Court must dismiss any portion that is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). To determine whether the complaint states a

claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Schillinger v. Kiley*, 954 F.3d 990, 993 (7th Cir. 2020). Under that standard, a complaint must include "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The Court construes *pro se* complaints liberally and holds them to a "less stringent standard than formal pleadings drafted by lawyers." *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017).

II. Motion to Proceed *in Forma Pauperis*

Mr. Taylor's motion to proceed *in forma pauperis* is **granted**. Although Mr. Taylor is excused from *pre-paying* the \$350.00 filing fee, he remains obligated to pay the \$350.00 filing fee. *See* 28 U.S.C. 1915(b)(1).

III. The Complaint

The complaint names the following defendants: Indiana Department of Corrections ("IDOC"), Commissioner Robert Carter, Jr., Director of Mental Health Mark Levenhager, Director of Mental Health Amy Eickmeier, Warden Dennis Reagle, Unknown IDOC officers, Dr. William Jones, Dr. Vickie Burdine, Health Services Administrator L. Hanbliy, Dr. Vendor, Dr. William Mays, Dr. Christine Liedtke, Mental Health Provider Michelle Commander, Centurion Health ("Centurion"), and L. Hamblin. Mr. Taylor is seeking compensatory and punitive damages, declaratory relief, and injunctive relief.

The complaint makes the following allegations. Mr. Taylor has several mental illnesses, including schizoaffective disorder, bipolar disorder, attention deficit disorder, and anxiety. He has suicidal ideations and compulsively engages in self-harm.

The complaint alleges that Centurion has several unconstitutional policies or customs: Centurion has a policy of having prisoners monitor other prisoners on suicide watch. These monitoring prisoners frequently provide prisoners on suicide watch with razorblades. Mr. Taylor was given razor blades by monitoring prisoners while he was on suicide watch, and this resulted in multiple acts of self-harm. Centurion has a policy or custom of refusing to treat inmates for attention deficit disorder. Centurion has a policy or custom of delaying the process to approve necessary prescriptions for certain mental health medications. Centurion has a policy or custom of "us[ing] medical restraints and anti-psychotic meds to a prisoner that is actually attempting suicide." Dkt. 1, p. 7. Centurion has a policy or custom of discontinuing mental health medications without first conducting "any type of exam." *Id.*

Centurion and IDOC have a policy or custom that contravenes a previous settlement agreement that prohibits keeping seriously mentally ill prisoners in segregation for more than 30 days. *See Indiana Protection and Advocacy Services Com'n v. Commissioner, Indiana Dept. of Correction*, Case No. 1:08-1317-TWP-MJD.

The complaint alleges that at various times, Dr. Liedtke, MHP Commander, Dr. Jones, and Dr. Burdine knew that Mr. Taylor had razor blades and was about to engage in self-harm but did nothing to prevent him from engaging in self-harm.

The complaint alleges that Dr. Burdine discontinued Mr. Taylor's Haldol prescription because he was allergic to this medication but did not replace Haldol with an alternative anti-psychotic. Instead, Dr. Burdine allegedly replaced Mr. Taylor's Haldol with Benadryl.

The complaint alleges that Dr. Mays discontinued Mr. Taylor's prescription for Remeron, which is an antidepressant Mr. Taylor was prescribed as a sleep aid, in retaliation for grievances and lawsuits Mr. Taylor filed against Dr. Liedtke.

IV. Discussion of Claims

Applying the screening standard to the factual allegations in the complaint, certain claims are dismissed while other claims shall proceed as submitted.

A. Claims that are Dismissed

All claims against IDOC are **dismissed** because claims against state agencies in federal court are barred by the Eleventh Amendment. *Joseph v. Board of Regents of University of Wisconsin System*, 432 F.3d 746, 748 (7th Cir. 2005); *Nuñez v. Indiana Dep't of Child Services*, 817 F.3d 1042, 1044 (7th Cir. 2016); *see also Moore v. State of Ind.*, 999 F.2d 1125, 1128-1129 (7th Cir. 1993) (citing *Pennhurst*, 465 U.S. at 100).

All claims against Unknown IDOC Officers are **dismissed** because suing unnamed defendants in federal court is generally disfavored by the Seventh Circuit. *See Wudtke v. Davel*, 128 F.3d 1057, 1060 (7th Cir. 1997) ("[I]t is pointless to include [an] anonymous defendant [] in federal court; this type of placeholder does not open the door to relation back under Fed. R. Civ. P. 15, nor can it otherwise help the plaintiff.") (internal citations omitted)).

All claims against Commissioner Carter, Director Levenhager, Director Eickmeier, Warden Regal, L. Hanbliy, Dr. Vendor, and L. Hamblin are **dismissed** because the complaint does not allege any facts against these defendants. Thus, the complaint does not create a reasonable inference that these defendants were personally involved in violating Mr. Taylor's constitutional rights. "Individual liability under § 1983... requires personal involvement in the alleged constitutional deprivation." *Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017) (internal

quotation omitted) (citing *Wolf-Lillie v. Sonquist*, 699 F.2d 864, 869 (7th Cir. 1983) ("Section 1983 creates a cause of action based on personal liability and predicated upon fault. An individual cannot be held liable in a § 1983 action unless he caused or participated in an alleged constitutional deprivation.... A causal connection, or an affirmative link, between the misconduct complained of and the official sued is necessary.")).

Mr. Taylor's breach of contract claims regarding the violation of a settlement agreement are **dismissed**. According to the complaint, this settlement agreement prohibited IDOC from keeping seriously mentally ill prisoners in segregation for more than 30 days. The complaint does not allege that Mr. Taylor was held in segregation for more than 30 days. Instead, the complaint alleges that Mr. Taylor was kept under suicide monitoring for an unspecified duration.

B. Claims that Shall Proceed

Mr. Taylor's Eighth Amendment claims alleging deliberate indifference to a serious medical need **shall proceed** against Centurion on the theory that Centurion maintains unconstitutional policies or customs as described in Part III of this Order.

His Eighth Amendment claims **shall proceed** against Dr. Jones, Dr. Burdine, Dr. Liedtke, and MHP Commander in their individual capacities on the theory that these defendants knew that Mr. Taylor was at a substantial risk of self-harm and did not take reasonable measures within their authority to prevent Mr. Taylor's self-harm.

His Eighth Amendment claim **shall proceed** against Dr. Burdine on the theory that Dr. Burdine discontinued Mr. Taylor's Haldol prescription without replacing Haldol with an alternative anti-psychotic.

His Eighth Amendment claim **shall proceed** against Dr. Mays for discontinuing his prescription for Remeron without a legitimate medical reason.

His First Amendment claim **shall proceed** against Dr. Mays for discontinuing his prescription for Remeron in retaliation for Mr. Taylor's grievances and lawsuits against Dr. Liedtke.

His medical malpractice claims **shall proceed** against Dr. Jones and Dr. Burdine for "not following the normal practices of psychiatrists in providing logical treatment for a person that actually suicidal and an imminent threat to self." Dkt. 1, p. 8. The Court liberally construes this statement as alleging that Dr. Jones and Dr. Burdine breached the standard of care for treating psychiatric patients at risk of suicide or self-harm.

His negligence claims **shall proceed** against Dr. Liedtke, MHP Commander, Dr. Jones, and Dr. Burdine for failing to take reasonable measures to prevent Mr. Taylor from engaging in self-harm.

This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have **through August 31, 2022**, in which to identify those claims.

The **clerk is directed** to terminate Indiana Department of Corrections, Robert Carter, Jr., Mark Levenhager, Amy Eickmeier, Dennis Regal, Unknown IDOC Officers, L. Hanbliy, Dr. Vendor, and L. Hamblin as defendants on the docket.

The **clerk is directed** to rename "Centurion Health" to "Centurion Health of Indiana, LLC" on the docket.

V. Motion for Preliminary Injunction

Mr. Taylor has filed a motion for a preliminary injunction. The remaining defendants are **ordered** to respond to this motion when they answer or otherwise respond to the complaint.

IV. Service of Process

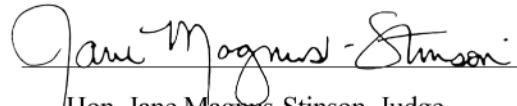
The **clerk is directed** pursuant to *Fed. R. Civ. P.* 4(c)(3) to issue process to defendants Dr. William Jones, Dr. Vickie Burdine, Dr. William Mays, Dr. Christine Liedtke, Michelle Commander, and Centurion Health of Indiana, LLC in the manner specified by Rule 4(d). Process shall consist of the complaint filed on July 27, 2022, dkt [1], the motion for preliminary injunction, dkt. [3], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

The **clerk is directed** to serve the Centurion employees electronically.

Nothing in this Order prohibits the filing of a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Date: 8/9/2022


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

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NEW CASTLE, IN 47362

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550 North Meridian Street
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Indianapolis, Indiana 46204

Electronic Service to Centurion Employees

Dr. William Jones
Dr. Vickie Burdine
Dr. William Mays
Dr. Christine Liedtke
Michelle Commander